

to document the alien was selected for the job opportunity in a competitive recruitment and selection process through which the alien was found to be more qualified than any of the United States workers who applied for the job. For purposes of this paragraph (b), documentation of the “competitive recruitment and selection process” must include:

(1) A statement, signed by an official who has actual hiring authority from the employer outlining in detail the complete recruitment procedures undertaken; and which must set forth:

(i) The total number of applicants for the job opportunity;

(ii) The specific lawful job-related reasons why the alien is more qualified than each U.S. worker who applied for the job; and

(2) A final report of the faculty, student, and/or administrative body making the recommendation or selection of the alien, at the completion of the competitive recruitment and selection process;

(3) A copy of at least one advertisement for the job opportunity placed in a national professional journal, giving the name and the date(s) of publication; and which states the job title, duties, and requirements;

(4) Evidence of all other recruitment sources utilized; and

(5) A written statement attesting to the degree of the alien’s educational or professional qualifications and academic achievements.

(c) *Time limit for filing.* Applications for permanent alien labor certification for job opportunities as college and university teachers must be filed within 18 months after a selection is made pursuant to a competitive recruitment and selection process.

(d) *Alternative procedure.* An employer that can not or does not choose to satisfy the special recruitment procedures for a college or university teacher under this section may avail itself of the basic process at § 656.17. An employer that files for certification of employment of college and university teachers under § 656.17 or this section must be able to document, if requested by the Certifying Officer, in accordance with § 656.24(a)(2)(ii), the alien was found to be more qualified than each

U.S. worker who applied for the job opportunity.

§ 656.19 Live-in household domestic service workers.

(a) *Processing.* Applications on behalf of live-in household domestic service occupations are processed pursuant to the requirements of the basic process at § 656.17.

(b) *Required documentation.* Employers filing applications on behalf of live-in household domestic service workers must provide, in event of an audit, the following documentation:

(1) A statement describing the household living accommodations, including the following:

(i) Whether the residence is a house or apartment;

(ii) The number of rooms in the residence;

(iii) The number of adults and children, and ages of the children, residing in the household; and

(iv) That free board and a private room not shared with any other person will be provided to the alien.

(2) Two copies of the employment contract, each signed and dated prior to the filing of the application by both the employer and the alien (not by their attorneys or agents). The contract must clearly state:

(i) The wages to be paid on an hourly and weekly basis;

(ii) Total hours of employment per week, and exact hours of daily employment;

(iii) That the alien is free to leave the employer’s premises during all non-work hours except the alien may work overtime if paid for the overtime at no less than the legally required hourly rate;

(iv) That the alien will reside on the employer’s premises;

(v) Complete details of the duties to be performed by the alien;

(vi) The total amount of any money to be advanced by the employer with details of specific items, and the terms of repayment by the alien of any such advance by the employer;

(vii) That in no event may the alien be required to give more than two weeks’ notice of intent to leave the employment contracted for and the employer must give the alien at least two

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weeks' notice before terminating employment;

(viii) That a duplicate contract has been furnished to the alien;

(ix) That a private room and board will be provided at no cost to the worker; and

(x) Any other agreement or conditions not specified on the *Application for Permanent Employment Certification* form.

(3) Documentation of the alien's paid experience in the form of statements from past or present employers setting forth the dates (month and year) employment started and ended, hours of work per day, number of days worked per week, place where the alien worked, detailed statement of duties performed on the job, equipment and appliances used, and the amount of wages paid per week or month. The total paid experience must be equal to one full year's employment on a full-time basis. For example, two year's experience working half-days is the equivalent of one year's full time experience. Time spent in a household domestic service training course can not be included in the required one year of paid experience. Each statement must contain the name and address of the person who signed it and show the date on which the statement was signed. A statement not in English shall be accompanied by a written translation into English certified by the translator as to the accuracy of the translation, and as to the translator's competency to translate.

§ 656.20 Audit procedures.

(a) Review of the labor certification application may lead to an audit of the application. Additionally, certain applications may be selected randomly for audit and quality control purposes. If an application is selected for audit, the Certifying Officer shall issue an audit letter. The audit letter will:

(1) State the documentation that must be submitted by the employer;

(2) Specify a date, 30 days from the date of the audit letter, by which the required documentation must be submitted; and

(3) Advise that if the required documentation has not been sent by the

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date specified the application will be denied.

(i) Failure to provide documentation in a timely manner constitutes a refusal to exhaust available administrative remedies; and

(ii) The administrative-judicial review procedure provided in § 656.26 is not available.

(b) A substantial failure by the employer to provide required documentation will result in that application being denied § 656.24 under and may result in a determination by the Certifying Officer pursuant to § 656.24 to require the employer to conduct supervised recruitment under § 656.21 in future filings of labor certification applications for up to 2 years.

(c) The Certifying Officer may in his or her discretion provide one extension, of up to 30 days, to the 30 days specified in paragraph (a)(2) of this section.

(d) Before making a final determination in accordance with the standards in § 656.24, whether in course of an audit or otherwise, the Certifying Officer may:

(1) Request supplemental information and/or documentation; or

(2) Require the employer to conduct supervised recruitment under § 656.21.

§ 656.21 Supervised recruitment.

(a) *Supervised recruitment.* Where the Certifying Officer determines it appropriate, post-filing supervised recruitment may be required of the employer for the pending application or future applications pursuant to § 656.20(b).

(b) *Requirements.* Supervised recruitment shall consist of advertising for the job opportunity by placing an advertisement in a newspaper of general circulation or in a professional, trade, or ethnic publication, and any other measures required by the CO. If placed in a newspaper of general circulation, the advertisement must be published for 3 consecutive days, one of which must be a Sunday; or, if placed in a professional, trade, or ethnic publication, the advertisement must be published in the next available published edition. The advertisement must be approved by the Certifying Officer before publication, and the CO will direct where the advertisement is to be placed.